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November 29, 2004

Jeff. S. Jordan  
Supervisory Attorney  
Federal Election Commission  
999 E Street, NW  
Washington, D.C. 20463

Re: MUR 5613  
"Massachusetts Republican State Congressional Committee"

Dear Mr. Jordan:

I am the General Counsel of the Massachusetts Republican State Committee (the "Committee"), also known as the Massachusetts Republican Party. I am responding to the letter dated November 19, 2004, received by the Committee on November 22, 2004. Pursuant to the discussions with Ms. Stevenson, we have already forwarded the Designation of Counsel. There are several reasons that no action should be taken.

First, there is no such thing as the Massachusetts Republican State Congressional Committee. Apparently, the complainant does not understand the functioning of the fundraising of the State Committee. As funds are raised by the Committee, they are allocated by regulatory requirement between the federal account and the state account. The Committee has essentially no discretion on the allocation of those funds. Thus, for fundraising purposes, the Committee exists on a state and a federal level. Once the allocation is made, the expenditures from the state account are regulated by the Commonwealth of Massachusetts; the expenditures from the federal account are regulated by the Federal Election Commission.

As a result, the nominal respondent of your letter simply does not exist. This is a deeper problem than that of nomenclature. The fundamental premise of the complainant is that there is a specialized fund for candidates for the United States Congress. In fact, such a specialized fund does not exist. Once that is understood, his assertion that the federal account is a "trust fund" for congressional candidates is seen to be entirely incorrect. Instead, it is merely a general federal account that can be used for any or all of the proper purposes of federal funds.

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Second, the complainant has not identified any purposes for which the funds were used improperly. There are a broad variety of permissible uses for federal funds including party-building activities, get-out-the-vote, and an allocable share of administrative costs. Nothing in the complaint even suggests that the expenditures are improper. Instead, the complainant seems to assume that the Committee has some obligation to expend funds for the purposes he supports – principally, his own candidacy. In fact, there is nothing in the statute or the implementing regulations that imposes such an obligation. Indeed, it is questionable whether the Constitution would permit the imposition of any affirmative obligation to use funds for a particular candidate or purpose.

Finally, the assertion that the documentation is inadequate is simply incorrect. In fact, the documentation is entirely consistent with the federal standards as several FEC audits have demonstrated.

In sum, the complaint has not demonstrated a basis for any further FEC action. Please contact the undersigned if you have any further questions.

Sincerely yours,

Evan Slavitt

Cc: Darrel Crate  
Tim O'Brien  
Brent Anderson

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